IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.Rev.Pet.No. 890 of 1998()

CRA.83/1995 of SESSIONS COURT, PALAKKAD
CC.35/1992 of JUDICIAL MAGISTRATE OF FIRST CLASS, MANNARKAD

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REVN. PETITIONER/APPELLANT/2ND ACCUSED

SUNDARAN @ GOPI, AGED 27/91,
S/O.SANKARANARAYANAN, MUTHEDATHU VEEDU,
VARMMANGODE, KANJIRAPPUZHA, MANNARCADU.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENT/RESPONDENT/COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR MR.P.RAVINDRA BABU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K. BALI, C.J.

Crl.R.P.No.890 of 1998

Dated, this the 22nd day of November, 2006

ORDER

V.K.Bali,C.J.(Oral)

The petitioner along with his co-accused Thomas @ Kuttan (A1) was tried for offence under Section 381 read with Section 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for one year each vide order dated 26th May, 1995 passed by the Judicial Magistrate of the Ist Class, Mannarkkad. The appeal carried against the order aforesaid was dismissed by the learned Sessions Judge, Palakkad vide order dated 14th October, 1998. It is against these two orders that the present revision has been filed by the petitioner.

2. The allegation against the petitioner was that on 22.12.1991 between 9 and 10 P.M. he along with his co-accused who were employees of CW.1, committed theft of 20 rubber sheets and 36 Kgs. of scrap rubber valuing about Rs.600/- from the store house of Kanjirapuzha Valiyakadu Estate situated in VIII/433 of the Pottassery Panchayat.

3. The learned counsel appearing for the petitioner without joining issues on the merits of the case contends that the

occurrence pertains to the year 1991 and in the manner aforesaid the petitioner has already suffered agony of a protracted trial spanned over a period of about 15 years and he may not be sent to serve a jail term at this stage.

4. In totality of the facts and circumstances of the case, this Court is of the view that interests of justice will be served if while maintaining the order of conviction the petitioner is asked to pay a fine of Rs.One thousand instead of undergoing the jail term. Ordered accordingly. If the fine as mentioned above is not paid the petitioner would undergo the jail sentence as imposed by the courts below.

Revision petition is disposed of accordingly.

V.K. BALI,
CHIEF JUSTICE.

vns